



# Code Words

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July 2002

Douglas M. Duncan, County Executive

Charles W. Thompson, Jr., County Attorney

## OFFICE OF THE COUNTY ATTORNEY

*The Office of the County Attorney is the legal arm of the Montgomery County government. The County Attorney's staff exclusively advises and represents County agencies, including the Council. The Office of the County Attorney also serves the citizens of Montgomery County directly. Although staff cannot offer legal advice to individuals, we can offer guidance on the application of Montgomery County law, including code enforcement matters, and can help to direct those with questions to appropriate agencies. We can be reached at (240) 777-6700.*

## CODE ENFORCEMENT UNIT

*The Code Enforcement Unit, as part of the Office of the County Attorney, serves to help enforce County laws. The Unit's mission is to serve the community by helping to fairly and reasonably enforce our County Code and to help solve the problems leading to citations. We seek to be available to the community both to provide information, as in this newsletter, and to address questions and concerns from citizens. We are available to speak to community groups or agencies about our work at regional service centers, community centers, senior centers, or other locations. Please contact Frank Johnson, Principal Counsel for the Code Enforcement Unit, at (240) 777-6754 or [johnsf@co.mo.md.us](mailto:johnsf@co.mo.md.us), if you have questions or are interested in scheduling a speaker or meeting.*

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## Consumer Affairs

*Montgomery County offers a range of services*

**By Eric S. Friedman**

*Division of Consumer Affairs*

Montgomery County is fortunate to have one of the top local consumer protection agencies in the nation. For more than 30 years, the Division of Consumer Affairs, part of the Department of Housing and Community Affairs, has been helping consumers with problems concerning automotive sales and repairs, new home purchases, home improvements, credit issues, retail sales, and most other consumer transactions.


Consumer Affairs investigates and resolves thousands of individual complaints each year and conducts major investigations, many of which have been reported in newspapers, magazines, and television and radio news programs. Rarely do you find local consumer affairs offices in other jurisdictions with the level of resources and services offered by Montgomery County.

Certified auto mechanics are on staff to handle technical repair and service problems. Trained staff provide help with complicated auto lease documents and new home sales contracts. Consumer Affairs Investigators specialize in certain business and trade practices and are able to provide advice and guidance to consumers before and after a purchase. The Division enforces Montgomery County's Consumer Protection Act and other chapters of the Montgomery County Code. Cases are referred to the Office of the County Attorney when court action is appropriate.

Services offered by the Division of Consumer Affairs include:

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- Investigating and processing individual consumer complaints
- Providing consumer education and pre-purchase information, including disclosing the number of complaints against any business and providing purchase advice on selected consumer topics
- Licensing certain businesses, including motor vehicle repair shops, new home builders, towing companies, radio/television/electronic repair shops, residential rental facilities, and second-hand property sales
- Operating the award-winning Child Passenger Safety Program – to promote car seat use and other safety measures
- Staffing the Office of Common Ownership Communities – an alternative dispute resolution program for condominium and homeowner associations
- Maintaining a website to provide consumer alerts, complaint disclosure information, and general buying advice  
(<http://hca.emontgomery.org/consumer>)

The Division of Consumer Affairs has 40 staff members, in addition to a team of dedicated volunteers, ready to help. The Division has the power to issue civil citations for violations of consumer protection laws and to issue subpoenas to compel the attendance of witnesses and the production of documents. The office also takes an active role in local, state, and federal legislation affecting consumers in Montgomery County. In addition to our website, you may contact the office at (240) 777-3636. 

## Office of Landlord-Tenant Affairs

By Jennifer S. Weil

*Assistant County Attorney*

The Montgomery County Office of Landlord-Tenant Affairs, a Division of the Department of Housing and Community Affairs, provides landlords and tenants in the County with information about their rights and responsibilities, and investigates and attempts to conciliate landlord-tenant disputes.


Both landlords and tenants who are involved in a

dispute concerning rental property can file complaints with the Office. Complaint forms are available online, in person, or can be ordered by calling (240) 777-3600. Before a complaint can be filed with the Office, however, the complaining party needs to mail a copy of the completed complaint form to the other party. If, after one week, the complaint is still not resolved, the complaint can be filed with the Office.

When the Office receives a complaint, an investigator is assigned to investigate the allegations. The investigator will request all relevant documents and interview all parties and witnesses to the dispute. The investigator will also attempt to schedule a conciliation conference in an attempt to resolve the dispute. If the conciliation conference is successful and the parties are able to reach an agreement, the investigator will reduce the agreement to writing for all parties to sign.

If the investigator is unable to resolve the dispute, the investigator will refer the complaint to the Montgomery County Commission on Landlord Tenant Affairs and provide the Commission with a summary of the findings from the investigation, and a recommendation as to whether or not a public hearing is necessary. At that point, the Commission has a few options -- 1) dismiss the complaint, 2) schedule the case for a public hearing, or 3) send the case back for further investigation. If the Commission schedules a case for a hearing, a panel of three Commissioners -- one tenant representative, one landlord representative, and one “public at large” representative -- will conduct the hearing.

All parties are given the opportunity to present testimony and evidence at the hearing. After the hearing, the Commission will issue a written Decision and Order which is legally binding on the parties. If the Commission finds that a violation of landlord tenant law has occurred, the Commission has the authority to order a variety of relief, including the immediate termination of a lease, return of a security deposit, return of rent paid, and damages.

The Commission has issued Decision and Orders on a variety of landlord tenant matters, including disputes over security deposits, disputes over damage to property, disputes concerning repairs to property and the habitability of property, and allegations of breach of lease. The Commission’s Decisions and Orders in past cases are available online at [www.co.mo.md.us/hca](http://www.co.mo.md.us/hca), and are also available at the Office. 

## IMPORTANT PHONE NOS.

Animal Services	(240) 777 – 5925
Abandoned Cars	(301) 840 – 2454
Building Permits	(240) 777 – 6210
Building Code Inspections	(240) 777 – 6210
Consumer Affairs	(240) 777 – 3636
County Information	(240) 777 – 1000
County Attorney's Office	(240) 777 – 6700
Electrical Licenses & Permits	(240) 777 – 6210
Environmental Protection	(240) 777 – 7770
Fire-Code Violations	(240) 777 – 2457
Housing & Code Enforcement	(240) 777 – 3600
Untagged Cars	(240) 777 – 3785
Noise Control	(240) 777 – 7770
Recycling/Leaf Collection	(240) 777 – 6410
Snow Removal & Pot Holes	(240) 777 – ROAD
Solid Waste	(240) 777 – 6410
Street Lights	(240) 777 – 2190
Use & Occupancy Permits	(240) 777 – 6370
Vendor Information	(240) 777 – 6256
Water Quality Control	(240) 777 – 7770
Weed Control	(240) 777 – 3785
Zoning Information	(240) 777 – 6240
Zoning Complaints	(240) 777 – 6259

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To be placed on our mailing list or to submit questions or comments, please contact us at the above address or [codeword@co.mo.md.us](mailto:codeword@co.mo.md.us). Please include your name, address, and phone number or e-mail address. *Code Words* is published quarterly. The next issue will be mailed in October 2002.

## Homeowner's Tax Credit Program

**By Nadean Pedersen**

*Assistant County Attorney*

The Homeowner's Tax Credit Program is intended to provide a credit against real property taxes that the homeowner would otherwise have to pay. The program is open to Maryland homeowners with a net worth less than \$200,000. Eligibility and ability to pay are determined by gross income and net worth. The homeowner will not receive a tax credit if his or her net worth exceeds \$200,000 as of December 31 of the year preceding the application year.

The Maryland statute that provides this program includes a number of specific provisions and definitions. To be eligible, the homeowner (or spouse or children under a court order or separation agreement) must reside in the dwelling to be eligible for the tax credit. The dwelling is defined as the homeowner's principal residence for more than six months of a 12 month period, including July 1 of the taxable year for which the credit is sought. Gross income that must be counted includes gifts, alimony and support money, a pension, annuities, unemployment benefits, workers' compensation benefits, rent, and business net income, but not income tax refunds or business losses.

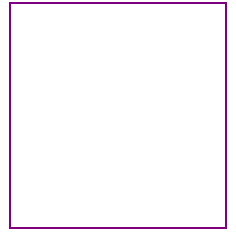
In addition to the gross income test, the credit is also based on the homeowner's net worth as of the year preceding the request. Net worth is defined as "the sum of the current market value of all assets, less any outstanding liability." Current market value for realty is the value determined by the State Department of Assessments and Taxation (SDAT). While the statute does not define "asset" or "liability," it does list what does -- and does not -- constitute an asset. For example, assets can be real property, cash, savings, stocks, bonds, and other investments, but not tangible personal property or the dwelling or home for which the tax credit is sought. While the statute expressly excludes from the list of assets the dwelling for which the credit is sought, it does not specifically exclude as a liability the mortgage on that dwelling.

Since this program was implemented, SDAT has

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ADDRESS CORRECTION REQUESTED

*Homeowner's Tax Credit*

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excluded mortgage liability when calculating net worth. Recently, that practice was challenged in court when an applicant asserted that, since the statute did not specifically *exclude* mortgage liability in the net worth calculation, it should be included. The court disagreed, pointing out that, where there is doubt about whether or not mortgage liability should be excluded, it should continue to be excluded. The court concluded that exclusion of the home as an asset required, in turn, exclusion of the mortgage as a liability as well, and that to conclude otherwise would conflict with the intent of the legislature and only provide a shelter for other assets.

To apply for the tax credit, you must submit an application form to SDAT on or before September 1 of the year in which the tax credit is sought. The statute contains specific provisions for disabled veterans and their surviving spouses and permits assignment of the

tax credit to continuing care facilities. 

*James G. Bennett v. State Department of Assessments and Taxation*,  
143 Md. App. 356 (2001).

